

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

WAYNE SCOVIL, ET AL.,)	
)	
PLAINTIFFS)	
)	
v.)	No. 1:10-cv-515-DBH
)	
FEDEX GROUND PACKAGE)	
SYSTEM, INC. <i>d/b/a FedEx</i>)	
<i>Home Delivery,</i>)	
)	
DEFENDANT)	

CLASS CERTIFICATION ORDER

The above-captioned matter came before United States District Judge D. Brock Hornby on July 19, 2012, pursuant to the plaintiffs' Motion for Class Certification pursuant to Fed. R. Civ. P. 23. On August 13, 2012, the Court issued a Decision and Order on Plaintiffs' Motion to Certify Class and Defendant's Motion to Decertify Collective Action (ECF No. 137). The Court granted the plaintiffs' motion for class certification of their claims alleging violations of Maine's overtime law, 26 M.R.S.A. § 664 and Maine's law prohibiting deductions from employee paychecks, 26 M.R.S.A. § 629.

Based on the memoranda submitted, the parties' oral arguments, and the Court's findings the Court orders the following:

1. The plaintiffs' Motion for Class Certification (ECF No. 96) is **GRANTED.**

2. The Court certifies the following class:

All persons who executed a standard Operating Agreement with FedEx Ground Package System, Inc. and worked full time as delivery drivers in Maine under that agreement at any time between December 16, 2004 and December 16, 2010.

3. The Court appoints the plaintiffs Wayne Scovil, Christy Parsons, Kelley Nylund, Clarence McMullen, Jr., Brent Bailey, Henry Smith and Duane Humphrey as class representatives and appoints the plaintiffs' counsel Harold L. Lichten, Shannon Liss-Riordan and Sara Smolik of Lichten & Liss-Riordan, P.C., and Donald F. Fontaine of the Law Office of Donald Fontaine as class counsel.

4. The Court orders the defendant to turn over to the plaintiffs' counsel names and last known addresses of all class members.

5. The Court approves the attached Notice of Class Action Lawsuit and orders that it be sent to every class member.

SO ORDERED.

DATED THIS 10TH DAY OF OCTOBER, 2012

/s/D. BROCK HORNBY

D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE

C.A. No. 1:10-cv-00515-DBH

1. DESCRIPTION OF THE LAWSUIT

The named plaintiffs in this lawsuit are Wayne Scovil, Christy Parsons, Kelley Nylund, Clarence McMullen, Jr., Brent Bailey, Henry Smith and Duane Humphrey. The lawsuit was initially filed on December 12, 2010 against FedEx.

In this lawsuit, Plaintiffs have asserted claims for unpaid overtime and unlawful paycheck deductions against FedEx based on the allegation that FedEx improperly classified its delivery drivers in Maine as independent contractors rather than employees. Plaintiffs are seeking damages for violations of Maine's overtime law, 26 M.R.S.A. § 664 and Maine's law prohibiting deductions from employee paychecks, 26 M.R.S.A. § 629. The Court has certified a class with respect to these claims.

FedEx denies Plaintiffs' allegations. In particular, it denies that class members were employees and it denies that it violated either the Maine overtime law or the Maine law prohibiting certain deductions from paychecks.

2. YOUR RIGHTS AND OPTIONS

The purpose of this notice is to inform you of the pendency of this lawsuit and to advise you that you have the right to participate or not participate in this case.

In order to participate in this case and receive an award of damages if Plaintiffs prevail on their claim for violations of the Maine law, you need not do anything. If you remain in this case, however, you will be bound by the judgment of the Court on Plaintiffs' claims whether Plaintiffs win or lose, and you will thus be bound by any ruling in favor of FedEx if Plaintiffs lose. If you are currently providing delivery services to FedEx, you cannot be retaliated against by FedEx for remaining in this case.

If you choose not to remain in this lawsuit, you will not be bound by any resulting judgment in this case, regardless of which side wins. You will not be entitled to any monetary damages obtained by the Plaintiffs nor will you be bound by any ruling for the Plaintiffs or for FedEx. If you choose not to remain, you may bring a separate lawsuit, or you may choose to do nothing. If you prefer to consider a separate lawsuit, you may wish to consult an attorney about your legal rights.

If you choose not to remain in this lawsuit, you must send the enclosed Opt-Out Form to Scott Simpson, Firm Administrator for one of the law firms representing the Plaintiffs in this case. Mr. Simpson's contact information is:

Scott Simpson, Firm Administrator
Lichten & Liss-Riordan, P.C.
100 Cambridge Street, 20th Floor
Boston, MA 02114
FAX: (617) 994-5801
Email: ssimpson@llrlaw.com

The deadline for sending this Opt-Out Form is forty-five (45) days from the date of this Notice, or _____, 2012. The Court reserves the right to alter this deadline for good cause shown. Again, to participate in this lawsuit, you do not need to do anything.

3. THE LAWYERS REPRESENTING THE PLAINTIFFS AND THE CLASS

If you do not affirmatively ask to opt-out of the lawsuit, your interest in Plaintiffs' claim against FedEx for violations of the Maine overtime law and Maine law prohibiting paycheck deductions will be represented by counsel for Plaintiffs and the class:

Harold Lichten, Esq.	Donald F. Fontaine, Esq.
Shannon Liss-Riordan, Esq.	The Law Office of Donald Fontaine
Sara Smolik, Esq.	97 India Street, P.O. Box 7590
Lichten & Liss-Riordan, P.C.	Portland, ME 04112
100 Cambridge Street, 20 th Floor	(207) 879-1300
Boston, MA 02114	
(617) 994-5800	
www.llrlaw.com	

You will not have to pay any out-of-pocket costs for representation by Plaintiffs' counsel. Plaintiffs' counsel is providing representation on a contingency fee basis, which means that counsel will be paid by receiving a portion, subject to Court approval, of amounts awarded to Plaintiffs. If there is no recovery, there will be no attorney's fees.

You do not need to hire your own lawyer, but you can retain your own lawyer at your own expense if you so choose.

4. GETTING MORE INFORMATION

If you have any questions about this Notice or would like more information about the lawsuit, you may write, call, or email Attorneys Harold Lichten and Sara Smolik, or Firm Administrator Scott Simpson of Lichten & Liss-Riordan, P.C. The firms' address and phone number are listed above, and the email addresses for Mr. Lichten, Ms. Smolik and Mr. Simpson are, respectively, hlichten@llrlaw.com, ssmolik@llrlaw.com, and ssimpson@llrlaw.com.

DO NOT CONTACT THE COURT, THE OFFICE OF THE DISTRICT COURT ADMINISTRATOR, OR COUNSEL FOR DEFENDANT IF YOU HAVE ANY QUESTIONS ABOUT THIS MATTER.

THE FORM OF THIS NOTICE HAS BEEN APPROVED BY THE COURT, BUT THE COURT DOES NOT EXPRESS ANY VIEW OR JUDGMENT AT THIS TIME AS TO THE CLAIMS OR DEFENSES OF THE PARTIES IN THIS CASE.